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have to the face value after a surrender of the policy. This, it is submitted, should have been the ground of the decision in *Frederick v. Fidelity Mutual Life Insurance Co.* and should be applied to all related cases.

RECENT CASES

BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — RIGHT TO CASH SURRENDER VALUE OF LIFE INSURANCE POLICY — A bankrupt had a life insurance policy with a cash surrender value, a third person beneficiary, and a power reserved to himself to change the beneficiary. He died after the adjudication in bankruptcy and the defendant insurer paid the full face value of the policy to the beneficiary without notice of the bankruptcy. The plaintiff, trustee in bankruptcy, sues to recover the cash surrender value. *Held*, that the defendant is not liable. *Frederick v. Fidelity Mutual Life Insurance Co.*, U. S. Sup. Ct., Oct. Term, 1920, no. 547.

For a discussion of the principles involved in this case, see NOTES, *supra*, p. 80.

CONSTITUTIONAL LAW — EVIDENCE — PRIVILEGES UNDER THE FOURTH AND FIFTH AMENDMENTS — USE BY GOVERNMENT OF PAPERS STOLEN BY PRIVATE INDIVIDUAL. — The petitioner's private papers were stolen by detectives engaged by his employer. Evidence of an alleged fraudulent use of the mails was discovered therein, and voluntarily turned over to the Department of Justice, which had no prior knowledge of the theft. Before presentation of the papers to the grand jury, the petitioner filed a petition in the Federal District Court for an order for the return of the papers to him. *Held*, that the government is entitled to retain the papers for use against the petitioner. *Burdeau v. McDowell*, U. S. Sup. Ct., Oct. Term, 1920, No. 646.

The Supreme Court has recently indicated that it will give full effect to the privileges guaranteed by the Fourth and Fifth Amendments. *Silverthorne Lumber Co. v. United States*, 251 U. S. 385; *Gouled v. United States*, U. S. Sup. Ct., Oct. Term, 1920, No. 250. See Osmond K. Fraenkel, "Concerning Searches and Seizures," 34 HARV. L. REV. 361. But the privilege against unreasonable search and seizure has been held applicable only to action by government officers or their authorized agents. *Bacon v. United States*, 97 Fed. 35 (8th Circ.). See *Weeks v. United States*, 232 U. S. 383, 398; *Flagg v. United States*, 233 Fed. 481, 483 (2d. Circ.). The purpose of this Amendment, it is submitted, is to restrain unscrupulous government officers from interfering with domestic tranquillity, rather than to enable Federal offenders to avoid detection and prosecution. See COOLEY, CONSTITUTIONAL LIMITATIONS, 7 ed., 424 *et seq.*; 2 STORY, COMMENTARIES ON THE CONSTITUTION, 5 ed., §§ 1901-2. To safeguard his constitutional rights effectively, the petitioner might well be entitled to a return where any connection, although short of an agency, can be shown between Federal officials and the thief, before the theft. But where, as here, there is no connection, the petitioner must rely upon extra-Constitutional rights. It is submitted that the vague reason given by the dissenting justices, *viz.*, the lessening of respect for law "by resort in its enforcement to means which shock the common man's sense of decency and fair play," is a doubtful basis for such a right. The Fifth Amendment will not be violated by introducing these papers at the trial. *Lyman v. United States*, 241 Fed. 945 (9th Circ.). Petitioner's only remedy is an action for damages against the thief.